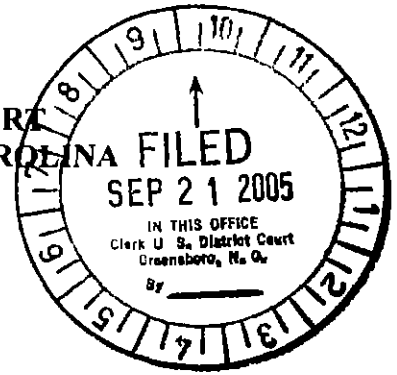


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CASE NO. ~~1:05-CV-007391~~

1:05CV391



NETALOG, INC ,

Plaintiff,

vs

BELKIN CORPORATION,

Defendant

**ANSWER TO COMPLAINT
AND COUNTERCLAIM**

DEMAND FOR JURY TRIAL

Defendant Belkin Corporation ("Belkin") answers the Complaint of Plaintiff Netalog, Inc ("Netalog") as follows

1 Answering Paragraph 1, Belkin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies each of those allegations

2 Answering Paragraph 2, Belkin denies that it is a corporation organized under the laws of the State of California, but admits that it has a principal place of business in Compton, California Belkin alleges and avers that it is a corporation organized under the laws of the State of Delaware

3 Answering Paragraph 3, Belkin admits that Netalog has brought a patent infringement action arising under the United States Patent Laws, 35 U S C §§ 271 and 281-285 and that this Court has subject matter jurisdiction over this matter under 28 U S C §§ 1331 and 1338(a), but denies Netalog's allegations of patent infringement Except as expressly admitted above, Belkin denies each and every allegation of Paragraph 3

4 Answering Paragraph 4, Belkin admits that it is subject to personal jurisdiction in

the Middle District of North Carolina because it has sold or offered for sale the accused product in this district. Belkin further admits that venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Except as expressly admitted above, Belkin denies each and every allegation of Paragraph 4.

5 Answering Paragraph 5, Belkin admits that United States Patent No. 6,591,085 (“the ‘085 Patent”) issued on July 8, 2003, and that it is entitled “FM Transmitter and Power Supply/Charging Assembly for MP3 Player.” Belkin further admits that a copy of the ‘085 Patent is attached to the Complaint as Exhibit A. Belkin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each of those allegations.

6 Belkin denies each and every allegation contained in Paragraph 6.

7 Belkin denies each and every allegation contained in Paragraph 7.

8 Belkin denies each and every allegation contained in Paragraph 8.

9 Belkin denies each and every allegation contained in Paragraph 9, and specifically denies that Netalog has been, or will be, damaged in any manner or sum, or at all, as a result of any wrongful action on the part of Belkin.

As and for its separate defenses, Belkin alleges as follows:

(Invalidity)

10 Belkin incorporates here the foregoing admissions, denials, and allegations.

11 The ‘085 Patent is invalid for failure to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101 *et seq.*

(Laches)

12 Belkin incorporates here the foregoing admissions, denials, and allegations.

13 F&G is barred by its laches from asserting the '085 Patent against Belkin

(Estoppel)

14 Belkin incorporates here the foregoing admissions, denials, and
allegations

15 F&G is estopped by its conduct from asserting the '085 Patent against
Belkin

(Waiver)

16 Belkin incorporates here the foregoing admissions, denials, and
allegations

17 F&G has waived any objection to Belkin's actions as alleged in the
Complaint

COUNTERCLAIM

Belkin asserts the following counterclaims against Netalog as follows

JURISDICTION AND VENUE

1 Belkin's First and Second Counterclaims arise under 28 U S C §§ 2201 and 2202,
and Belkin seeks declaratory relief as well as further relief based upon a declaratory judgment or
decree In the First Counterclaim, Belkin seeks a judicial declaration that it does not infringe a
United States patent In the Second Counterclaim, Belkin seeks a judicial declaration that a
United States patent is invalid This Court has original jurisdiction over the First and Second
Counterclaims under 28 U S C § 1338(a)

2 Venue is proper in this district because Netalog has submitted to this Court's
jurisdiction by the filing of the Complaint in this action

FIRST COUNTERCLAIM

(For Declaratory Judgment of Patent Non-Infringement)

3 Belkin incorporates here the foregoing admissions, denials, and allegations

4 An actual controversy exists between Belkin and Netalog as to whether Belkin infringes, contributes to the infringement of, or induces infringement of the '085 Patent, as Netalog contends, or does not do so, as Belkin contends

5 By this Counterclaim, Belkin seeks a declaration that it has not infringed and does not infringe the '085 Patent either literally or under the doctrine of equivalents Further, Belkin seeks a declaration that it has not contributed to or induced and does not contribute to or induce infringement of the '085 Patent by anyone A judicial declaration is necessary and appropriate at this time in order that Belkin may ascertain its rights and duties with respect to the '085 Patent and with respect to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products

SECOND COUNTERCLAIM

(For Declaratory Judgment of Patent Invalidity)

6 Belkin incorporates here the foregoing admissions, denials, and allegations

7 An actual controversy exists between Belkin and Netalog to whether the '085 Patent is valid, as Netalog contends, or is invalid for failure to comply with the requirements of patentability set forth in 35 U S C §§ 101 *et seq* , as Belkin contends

8 By this Counterclaim, Belkin seeks a declaration that the '085 Patent is invalid A judicial declaration is necessary and appropriate at this time in order that Belkin may ascertain its rights and duties with respect to the '085 Patent and to any past, present, or future manufacture, use, importation, distribution, sale, or offer of its products

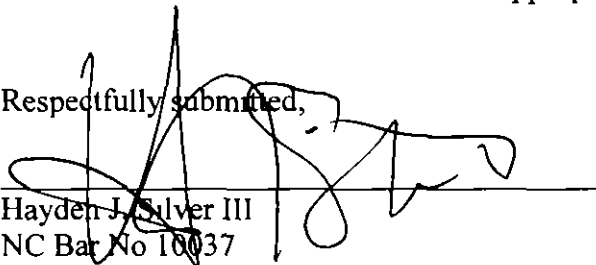
PRAYER FOR RELIEF

WHEREFORE, Belkin prays for judgment as follows

1 That Netalog take nothing by its Complaint and that its Complaint be dismissed,
2 That the Court determine and declare that Belkin and its products have not
infringed and do not infringe the '085 Patent,
3 That the Court declare that Belkin has not contributed to or induced and does not
contribute to or induce infringement of the '085 Patent by anyone,
4 That the Court declare that the '085 Patent is invalid,
5 That the Court award Belkin its attorneys' fees and litigation expenses under 28
U S C § 1927 and 35 U S C § 285 or on any other applicable basis,
6 That the Court award Belkin its costs of suit, and
7 That Belkin receive such other and further relief as the Court deems appropriate

Dated September 20, 2005

Respectfully submitted,



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DEMAND FOR JURY TRIAL

Belkin hereby demands trial by jury of all issues so triable under the law

Dated September 20, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hayden J. Silver', written over a horizontal line.

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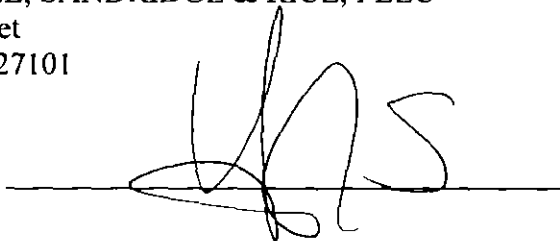
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CERTIFICATE OF SERVICE

I do hereby certify that I served a copy of the **ANSWER TO COMPLAINT AND COUNTERCLAIM** on the parties listed below by UPS Overnight delivery, thus the 20th day of September, 2005

Michael E Ray
Christopher G Daniel
WOMBLE, CARLYLE, SANDRIDGE & RICE, PLLC
One West Fourth Street
Winston-Salem, NC 27101

A handwritten signature in black ink, appearing to be 'MR', is written over a horizontal line.